

DIAA Board of Directors' Meeting Minutes
November 18, 2010 – 9:00 a.m.
Collette Building

I. Opening

A. Call to Order

The meeting was called to order at 9:15 a.m. by DIAA Chairperson Gerald Kobasa.

B. Roll Call

The following DIAA Board members were present: Gerald Kobasa, Michael Wagner, Edna Cale, Craig Eliassen, Laura Leone, Catherine Marvel, Harvey Hyland, Dr. Dianne Sole, Terre Taylor, Pam Love, Dr. Jeffrey Hawtof, Woody Long, Dr. Mark Holodick, and Ron Eby. Paula Fontello, Deputy Attorney General and Kevin Charles, Executive Director were also in attendance. Curtis Bedford, Eugene Montano, Susan Coffing, Randall O'Neal, and Dr. Amelia Hodges were unable to attend.

C. Approval of Agenda

Ms. Marvel made a motion to approve the agenda. The motion was seconded by Ms. Cale and carried unanimously. Mr. Charles advised the Board that he discovered an area in the minutes from the October 14, 2010 meeting that needs to be addressed. He referred the Board to page 9 of the minutes. Mr. Charles explained that during the waiver request hearing a motion was made to reprimand Aquinas Academy for playing a JV volleyball match versus the Sterck School. Mr. Charles explained that after the meeting he discovered an error in the information presented. Mr. Charles explained that in going back and reviewing emails he had associated with the waiver request and conversations he had with the school and with Freeman Williams of the Christina School District he stated that Aquinas approached him about playing the Sterck School. Mr. Charles explained that he gave Aquinas an interim waiver to play Sterck School. Mr. Charles stated that pursuant to the DIAA regulations and under the circumstances he believes it would be inappropriate to reprimand Aquinas Academy. Ms. Fontello clarified that the Board has already voted to reprimand the school and if the Board wanted to take action based on the new information, the Board would need to add this to the agenda since this matter has just arisen in order for the Board to reconsider this reprimand. Ms. Fontello suggested that for clarity, the Board could vote on removing this reprimand. Ms. Cale made a motion to amend the agenda to include Item III. H. to reconsider the reprimand for Aquinas Academy. The motion was seconded by Mr. Eby and carried unanimously.

D. Approval of Minutes of October 14, 2010 Board of Directors' Meeting and the November 11, 2010 DIAA Board Meeting

Mr. Eby made a motion to approve the minutes of the October 14, 2010 Board of

Directors meeting as corrected. The motion was seconded by Ms. Marvel and carried unanimously. Ms. Fontello explained that the Board had two sets of minutes to approve. She explained that the second set of minutes were from the Board's November 11, 2010 special meeting. Ms. Fontello explained that she did not represent the Board at the November 11, 2010 meeting. She further explained that the Board's written decision and final order was being prepared by the DAG that represented the Board and the decision will contain the details. Ms. Fontello stated that the Board's written decision is the official Board decision and order. Ms. Fontello also clarified that the written decision is required to be completed within 20 days after the meeting. Mr. Eby made a motion to accept the minutes from the November 11, 2010 DIAA Special Board Meeting. The motion was seconded by Mr. Eliassen and carried unanimously.

E. DIAA Financial Report

Mr. Charles stated that for the reporting period of October 7, 2010 through November 8, 2010 the total revenue was \$15,050.00 which brings the FY11 total to \$110,242.50 or 15% of the projected revenue. The revenue for the reporting period is primarily from member school dues. Mr. Charles stated that the fall tournaments have begun and the tournament revenue has started to come in. Mr. Charles then stated that the expenses for the reporting period are \$94,462.00 which are primarily from salary and liability insurance. Mr. Charles stated that we are operating at a \$113,918.00 deficit which is normal for this time of year. Dr. Hawtof made a motion to approve the financial report. The motion was seconded by Ms. Leone and carried unanimously.

IV. C. Legal Issues

In response to Board member's inquiries, Ms. Fontello explained that the DIAA is required to write a written decision regarding their action from the November 11, 2010 special meeting regarding Red Lion Christian Academy within 20 days of that hearing. Ms. Fontello clarified that the Board has taken action on the matter and that the Board's written decision is the Board's official decision. She further clarified that the written decision is not completed yet. Ms. Fontello cautioned that until that written decision comes out and the Board members have the chance to review the official decision, they may not want to discuss the matter in great detail. Ms. Fontello again clarified that she did not represent the Board at the meeting and she is not preparing the decision but she believes it will be circulated in the same manner as the Board's other's decisions with the opportunity to comment and give feedback.

III. Action Items

A. Approval of Tournament Sanctions

Mr. Charles commented that the 44 sanctioned events meet the necessary NFHS and DIAA criteria and that the 2010 Volleyball and 2010 Field Hockey All Star games as

well as the Beast of the East and Battle at the Beach are included. Dr. Hawtof made a motion to approve the sanctioned events. The motion was seconded by Mr. Hyland and carried unanimously.

B. Request for Waiver of DIAA Reg. 1009.2.7 by Pencader for T. R.

Tyler Reed; an 18 year old senior at Pencader and Brandon Townsend; the guidance counselor at Pencader were in attendance to present this request. Mr. Reed requested an open hearing. Ms. Fontello explained that DIAA is a 20 member Board and has 19 voting members. Ms. Fontello further explained that the law requires the affirmative vote of a majority of the voting members present in order to pass a waiver request. Ms. Fontello explained that there are 14 voting members participating and present to consider this matter. Ms. Fontello also explained the hearing procedures. The parties confirmed that they understood and wished to proceed. All persons participating in this hearing were sworn in. Ms. Fontello then reviewed all documents pertaining to this hearing and the documents were included in the record. Mr. Townsend explained that they were requesting a fifth year of eligibility. Mr. Townsend stated that Tyler was diagnosed with ADHD in 1999 but that no school took action until 2007 at the end of Tyler's first year of high school. Mr. Townsend explained that Tyler was tested again after the special education department suggested that Tyler be reevaluated. Tyler was tested again and then put on medication. Mr. Townsend stated that Tyler had not participated in athletics until last year when he participated in diving. Mr. Townsend stated that since Tyler has been on the medication Tyler has been participating in activities at the school. Tyler commented that he really enjoys participating in diving and that it helps him keep his grades up. Dr. Hawtof inquired regarding Student's medication history. Student explained his medical history and his previous responses to medication. Student explained his current medication and the process used to reach his current dosage. Student stated that he does well when he is taking his medicine as prescribed. Dr. Hawtof made a motion to go into deliberation. The motion was seconded by Dr. Sole and carried unanimously. Ms. Marvel made a motion to come out of deliberation. The motion was seconded by Ms. Leone and carried unanimously. The scheduling letter was also admitted as part of the record. Dr. Hawtof made a motion to approve the waiver based on obvious medical hardship that was beyond the control of the student, family, and school that directly linked to the lost of a year of eligibility and Student's inability to complete high school within four years. The motion was seconded by Mr. Eby and carried unanimously.

C. Request for Waiver of DIAA Reg. 1009.2.4 by Wilmington Christian for J. J.

Jordan Johnson; student at Wilmington Christian School, Chris and Janice Johnson; Jordan's parents, Doug Haas; principal at Wilmington Christian School, and Pam Love; athletic director at Wilmington Christian School were in attendance to present this request. Pam Love was recusing herself as a DIAA Board member and appearing with the school to present this request. The parents requested an open hearing. Ms.

Fontello explained that DIAA is a 20 member Board and has 19 voting members. Ms. Fontello further explained that the law requires the affirmative vote of a majority of the voting members present in order to pass a waiver request. Ms. Fontello explained that there are 13 voting members participating and present to consider this matter. Ms. Fontello also explained the hearing procedures. The parties confirmed that they understood and wished to proceed. All persons participating in this hearing were sworn in. Ms. Fontello then reviewed all documents pertaining to this hearing and the documents were included in the record. Mr. Haas explained that Student is a junior that transferred from Red Lion Christian Academy this summer. Mr. Haas stated that Student's mom was hired this summer and explained that Wilmington Christian has a policy that all full-time employees are required to enroll all school aged children into Wilmington Christian School. Mr. Haas explained that this is a long time policy at the school and is in no way used for recruiting athletes. Mr. Haas commented that in doing this it created a situation for Jordan because he played football and golf at Red Lion Christian. Mr. Haas stated that they do not have football but that they do sponsor golf. Ms. Johnson stated that she had worked at Red Lion Christian Academy and had left. She explained that she has some ethical concerns with things going on at her former employer and felt that she was asked to do some unethical things that were against her morals. Ms. Johnson stated that as a result she decided to resign from her position at Red Lion Christian. Ms. Marvel made a motion to go into deliberation. The motion was seconded by Dr. Sole and carried unanimously. Dr. Hawtof made a motion to come out of deliberation. The motion was seconded by Mr. Long and carried unanimously. Ms. Marvel made a motion to accept the waiver request based on the evidence presented the Student had met his burden of establishing a hardship and the fact that the transfer was out of the control of the student because of his mother's employment and the school enrollment policy. The motion was seconded by Mr. Long and carried unanimously.

D. Request for Waiver of DIAA Reg. 1009.2.4 by Wilmington Christian for J. S.

Jeff Sherrod; student at Wilmington Christian School, DaQuan and Bayyinah Gibson; Jeff's parents, Doug Haas; principal at Wilmington Christian School, and Pam Love; athletic director at Wilmington Christian School were in attendance to present this request. Ms. Love was recusing herself from the DIAA Board and was presenting this request. The parents requested an open hearing. Ms. Fontello explained that DIAA is a 20 member Board and has 19 voting members. Ms. Fontello further explained that the law requires the affirmative vote of a majority of the voting members present in order to pass a waiver request. Ms. Fontello explained that there are 13 voting members participating and present to consider this matter. Ms. Fontello also explained the hearing procedures. The parties confirmed that they understood and wished to proceed. All persons participating in this hearing were sworn in. Ms. Fontello then reviewed all documents pertaining to this hearing and the documents were included in the record. Mr. Haas explained that DaQuan Gibson was a part-time employee last year as the boys basketball coach and as a part-time employee did not have the same requirements as full-time. Mr. Haas stated that over the summer

DaQuan became a full-time employee at Wilmington Christian School as a chaplain and bible teacher of middle school and high school and he also is the assistant athletic director. Mr. Haas stated that he receives extra pay for the basketball coach position. Mr. Haas explained that the schools policy is that all employees must enroll your school aged children in Wilmington Christian School. Mr. Haas stated that Jeff would like to play basketball this year. Mr. Haas stated that he also was asking for a fifth year participation waiver. Mr. Gibson explained that when he received the full-time position at Wilmington Christian School he thought it was a good idea that his children had to be enrolled in the school as it exercised a loyalty to the school as well as he thought his children would be afforded a great education. Mr. Gibson stated that his children were previously attending the Delaware County Christian School in Pennsylvania and that it was farther away from Wilmington Christian School. Mr. Gibson stated that athletics was new to Jeff and that he just decided to play basketball. Mr. Gibson then explained that Jeff's social life was not that of a normal teens in that Jeff began to stay to himself and his grades began to drop and that Jeff complained of not having any friends. Mr. Gibson stated that Jeff asked about repeating the 10th grade because he felt he could correct some of the mistakes he made. Ms. Marvel made a motion to go into deliberation. The motion was seconded by Dr. Hawtof and carried unanimously. Ms. Marvel made a motion to come out of deliberation. The motion was seconded by Dr. Sole and carried unanimously. The family was given the opportunity to withdraw their request for 5th year eligibility to be able to bring it later when the waiver was ripe for a decision. Mr. Gibson stated that they would like to withdraw the request for a 5th year waiver. Ms. Marvel made a motion to approve the transfer waiver request for Student based on the evidence presented the Student had met his burden of establishing a hardship and the fact that the transfer was out of the student's control and was made because of his father's full-time employment at Wilmington Christian School and the school enrollment policy. The motion was seconded by Ms. Leone and carried unanimously.

The Board recessed at 11:10 a.m. and reconvened at 11:20 a.m.

E.. Consideration of Interim Waiver by Executive Director

1. DIAA Reg. 1009.2.4 by Ursuline for D. M.

Ms. Fontello stated that this matter is being considered under modified procedures with the consent of the parent and that the parent has requested a closed hearing for the purpose of protecting the pupil file. Ms. Cale made a motion to go into executive session for the purpose of protecting the privacy of the pupil file as an exception to FOIA. The motion was seconded by Dr. Hawtof and carried unanimously.

While in executive session, the hearing proceeded, evidence was taken, and the Board held deliberations. Ms. Fontello stated that this request is being conducted under the modified hearing process and that there is a signed consent from the student's parent in this case in order to proceed under these modified procedures. Ms. Fontello stated that this full hearing is scheduled for the December 9 meeting should it be necessary.

Ms. Fontello explained that Mr. Charles has granted two interim waivers in this hearing one allowing the student to participate and the second to allow the student and parent not to appear. It was confirmed that Mr. Charles was still under oath. The waiver packet and letter sent to the parents from Mr. Charles was made part of the record. Evidence was taken. Evidence was taken and deliberations were held

Ms. Taylor made a motion to come out of executive session. The motion was seconded by Mr. Hyland and carried unanimously. Mr. Long made a motion to grant the waiver and approve the two interim waivers granted by the Executive Director based on evidence presented the Student had met his burden of establishing a hardship and the information provided regarding the financial hardships that were beyond the control of the student. The motion was seconded by Dr. Hawtof and carried unanimously. Ms. Fontello clarified that the waiver request is granted and the full hearing scheduled for December 9 is cancelled.

2. DIAA Reg. 1009.2.4 by Polytech for A. D.

Ms. Fontello stated that this matter is being considered under modified Procedures with the consent of the parent and that the parent has requested a closed hearing for the purpose of protecting the pupil file. Dr. Sole recused herself from this hearing. Dr. Hawtof made a motion to go into executive session for the purpose of protecting the privacy of the pupil file as an exception to FOIA. The motion was seconded by Ms. Taylor and carried unanimously.

While in executive session, the hearing proceeded, evidence was taken, and the Board held deliberations. Ms. Fontello stated that this request is being conducted under the modified hearing process and that there is a signed consent from the student's parent in this case in order to proceed under these modified procedures. Ms. Fontello stated that this full hearing is scheduled for the December 9 meeting should it be necessary. Ms. Fontello explained that Mr. Charles has granted two interim waivers in this hearing one allowing the student to participate and the second to allow the student and parent not to appear. Mr. Charles was sworn in. The waiver packet and letter sent to the parents from Mr. Charles was made part of the record. Evidence was taken.

Ms. Marvel made a motion to come out of executive session. The motion was seconded by Ms. Taylor and carried unanimously. Dr. Hawtof made a motion to grant the waiver request and approve the two interim waivers granted by the executive director based on the evidence presented the Student had met his burden of establishing a hardship and the transfer was due to circumstances outside the control of all involved and there was no sign of athletic advantage in the hardship presented. The motion was seconded by Mr. Eby and carried unanimously. Ms. Fontello clarified that the waiver request is granted and the full hearing scheduled for December 9 is cancelled.

H. Reconsideration of Reprimand for Aquinas Academy

Mr. Charles confirmed that he was still under oath. Ms. Fontello explained for the record that at the Board's last regular meeting held on October 14, 2010 the Board considered a waiver request from Aquinas Academy. Ms. Fontello clarified that at the start of the Board's meeting it was noted that there is an issue with the reprimand given that Mr. Charles would like to address. Mr. Charles explained that the issue with Aquinas Academy and the Sterck School goes back into the later part of the summer when he had discussion with Jack Moore the headmaster of Aquinas about the Sterck school and their schedule. Mr. Charles stated that Aquinas is a very small school and has difficulty in scheduling yet they are a member of DIAA. Mr. Charles stated that he also spoke with Freeman Williams regarding the Christina School District middle schools membership and spoke to him about the Sterck School and playing Aquinas Academy. Mr. Charles stated that Sterck School is a public school and is required by law to be a member of DIAA. Mr. Charles stated that Jack Moore told him that he had a JV game scheduled with the Sterck School and asked if it was ok that Aquinas played them in a JV game. Mr. Charles stated that after much thought he did give them an interim waiver to play the Sterck School in a jv game only but they had to apply for a waiver. Mr. Charles stated that they did apply for the waiver but not until the October meeting after the JV game. The Board denied the waiver. Mr. Charles stated that during the discussion regarding the waiver request he did not recall granting this interim waiver. Mr. Eby made a motion to withdraw his motion to send a letter of reprimand. The motion was seconded by Ms. Cale and carried unanimously.

F. Request for Membership by Christina School District Middle Schools

Mr. Charles stated that this request is for membership for the middle schools in the Christina School District which include the Bayard Middle School, Gauger-Cobbs Middle School, George Kirk Middle School, and Shue-Medill Middle School. Mr. Charles stated that they are all public schools and are required by Delaware law to be members of DIAA. Mr. Charles stated that they will be beginning a middle school basketball program and will only be competing against schools in the Christina School District for this year. Mr. Eby made a motion to approve the request for membership. The motion was seconded by Mr. Eliassen and carried unanimously.

G. Request for Membership by Sterck School of Christina School District

Mr. Charles explained that the Sterck School is a school in the Christina School District with a middle school and a high school. Mr. Charles stated that they currently play other deaf schools and non member schools. Mr. Charles commented that he received a letter from the Sterck School requesting membership. Dr. Hawtof asked if it would be better to be an associate member instead of a full member. Ms. Fontello stated that Sterck School could ask for a waiver should they want to play a non-member schools. Dr. Hawtof made a motion to approve full membership for the Sterck School. The motion was seconded by Ms. Cale and carried unanimously.

IV. Executive Director Report

B. National Championships

Mr. Charles stated that the Board has discussed this in the past and that he has presented this to the athletic directors as well. Mr. Charles explained that the National Federation is going to consider this issue. Mr. Charles stated that the NFHS discourages national championships currently so this would take a change in the NFHS guidance documents. There has been some consideration as to whether or not the NFHS should have involvement in national championships and if that would be positive for the students. Mr. Charles reviewed a document listing the pros and cons of NFHS National Championships. Mr. Charles stated that he sits on the National Board and that they voted to take this to the membership without a recommendation from the Board. Mr. Charles stated that he represents the Mid-Atlantic states and that they were divided on this issue. This is going before the national council in January to be decided on and Mr. Charles would like the Board's perspective on the issue as guidance on how to vote. Mr. Charles stated that this issue did not receive much support from the member schools. Mr. Charles stated that there are 4 championships proposed at this time, one for golf which would be held during the summer, cross country which would occur during the school year, pep band, and One Act play. Ms. Fontello commented that this is not an action item and that if Mr. Charles was looking for action by the Board the matter should be placed on the December meeting agenda. Mr. Charles stated that he is just looking for feedback. Mr. Charles shared with the Board a letter from Darryl Parson which resigned from the Board and a letter from a previous waiver request.

D. Miscellaneous

Mr. Long raised questions regarding pending and potential litigation and evidence that was presented in one of the waiver decisions and if the documents would effect previous action taken by the Board. Mr. Long made a motion to go into executive session for legal advice on strategy regarding pending and potential litigation because an open discussion would have an adverse effect on the litigation position. The motion was seconded by Dr. Hawtof and carried unanimously. While in executive session a discussion followed regarding strategy and legal advice regarding pending and potential litigation. Dr. Hawtof made a motion to come out of executive session. The motion was seconded by Mr. Hyland and carried unanimously.

VI. Public Comment

None.

VII. Adjournment

Dr. Hawtof made a motion to adjourn at 12:40 p.m. The motion was seconded by Ms. Taylor and carried unanimously.

Tina Hurley

